

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Andrew Plummer,

Plaintiff,

vs.

Sheriff Investigator Orr;
SCDC Warden George T. Hagan;
Dir. Ozmint;
Elaine Sabb, Clerk of Court for
Allendale Magistrate Court;
Sheriff Investigator Braham; within
their individual and official capacities

Defendants.

Civil Action No.8:10-1966-TLW-BHH

**REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

The plaintiff a pro se prisoner filed this civil rights action on July 28, 2010 Before the court is the plaintiff's motion for a default judgment. (Dkt. #45.) The plaintiff contends that the defendants have failed to answer the plaintiff's complaint or otherwise plead.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

Rule 55(a) of the Federal Rules of Civil Procedure provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed.R.Civ.P. 55(a). The Plaintiff has failed to set forth any ground sufficient for the entry of default.

A review of the docket in this case shows that the Summons was served on Dir. Ozmint on November 10, 2010, and that Defendants Investigator Orr, Investigator Braham, George Hagan and Dir. Ozmint timely filed an Answer [Dkt. #33] on December 1, 2010, to

plaintiff's original complaint. Plaintiff then filed an Amended Complaint on December 9, 2010, and named Elaine Sabb and Woodrow Gooding as additional defendants. The Summonses for these newly added defendants have not yet been issued or served.

As Defendants Investigator Orr, Investigator Braham, George Hagan and Dir. Ozmint timely filed an Answer, and Defendants Elaine Sabb and Woodrow Gooding have not been served with the Amended Complaint yet, it is recommended that the Plaintiff's Motion for Default (Dkt. # 45) be DENIED.

IT IS SO RECOMMENDED.

s/Bruce Howe Hendricks
United States Magistrate Judge

December 14, 2010
Greenville, South Carolina

The Plaintiff's attention is directed to the important notice on the next page.